

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

THE RELIGIOUS SISTERS OF MERCY,
et al.,

Plaintiffs,

v.

ALEX M. AZAR, Secretary of the United
States Department of Health and Human
Service, *et al.*,

Defendants.

No. 3:16-cv-386

THE CATHOLIC BENEFITS
ASSOCIATION; DIOCESE OF FARGO;
CATHOLIC CHARITIES NORTH
DAKOTA; and CATHOLIC MEDICAL
ASSOCIATION,

Plaintiffs,

v.

ALEX M AZAR, Secretary of the United
States Department of Health and Human
Service, *et al.*,

Defendants.

No. 3:16-cv-432

Declaration of [REDACTED]

1. My name is [REDACTED] I am over 21 and capable of making this declaration. I have not been convicted of a felony or crime involving dishonesty. The facts herein are within my personal knowledge. If I were called upon to testify to these facts, I could and would competently do so.

2. I serve as the [REDACTED] for [REDACTED]

[REDACTED] and its Affiliates.

3. [REDACTED] is a section 501(c)(3) Catholic ministry listed in THE OFFICIAL CATHOLIC DIRECTORY. It seeks to improve the quality of life of the elderly within the community of [REDACTED] by providing a wide range of social, health care, housing, and pastoral services.

4. [REDACTED] accomplishes this in coordination with a number of affiliates, including: [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] (collectively, the “Affiliates”). I serve as [REDACTED] for each of these. [REDACTED] and [REDACTED] are separately incorporated, §501(c)(3) Catholic ministries. [REDACTED] and [REDACTED] operate as ministries of [REDACTED], [REDACTED], [REDACTED], and [REDACTED] are listed in THE OFFICIAL CATHOLIC DIRECTORY.

5. We do this work out of respect and reverence for the dignity of each person we serve. Respect for human dignity is the core of Catholic social teaching. *See Life and Dignity of the Human Person*, United States Conference of Catholic Bishops (“The Catholic Church proclaims that human life is sacred and that the dignity of the human person is the foundation of a moral vision for society. This belief is the foundation of all the principles of [Catholic] social teaching.”) (available at <https://www.usccb.org/beliefs-and-teachings/what-we-believe/catholic-social-teaching/life-and-dignity-of-the-human-person>). Similarly, [REDACTED]’s purpose, [REDACTED] is “promoting the dignity of human life within a variety of high-quality, specialized communities while providing older adults the programs and community-based services to fully live their best lives.” [REDACTED]

6. We describe the ministry of [REDACTED] and its Affiliates [REDACTED] like this:

[REDACTED]

7. [REDACTED] has 382 employees. [REDACTED] has 193 employees. Our [REDACTED] has fifteen employees. [REDACTED] has forty-five employees. [REDACTED] has eighteen employees. [REDACTED] has forty employees. [REDACTED] and its Affiliates, together, have 693 employees.

8. [REDACTED] provides a wide range of administrative services for each of its Affiliates.

9. [REDACTED] is a 130-bed skilled nursing center. Inspired by the teachings of Jesus Christ, it specializes in short-term rehabilitation, long-term nursing care, memory care, hospice and palliative care, and respite stays. As our website says, [REDACTED]

[REDACTED] Its services include memory care, physical speech and occupational therapies.

[REDACTED] receives Medicare funding for around 50% of its budget.

10. With 207 apartments for older adults, [REDACTED] not only provides homes for its residents, it also promotes friendships and provides many social activities so that they might live as independently as possible. [REDACTED] receives Medicare and Medicaid funding for some of the outpatient services it provides.

11. [REDACTED] provides 122 assisted living apartments including four memory care communities. Our residents at [REDACTED] are given a wide range of activities, classes, lectures, arts, and games. [REDACTED] receives Medicare funding for some of its outpatient services.

12. [REDACTED] is an all-inclusive assisted living home that serves older adults with limited incomes. [REDACTED] It has a chapel for Mass and for nondenominational services, and it provides hot meals three times a day. Its nursing staff is available twenty-four hours per day. Its services include a beauty salon and barber shop, mental health and outpatient medical care, and various types of therapy. It often receives Medicaid or Medicare reimbursement for some of its services. Medicare and Medicaid payments constitute 17% of [REDACTED] budget.

13. [REDACTED] provides affordable housing at ten sites for a total of 700 residents. These sites are the [REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED] [REDACTED]; and [REDACTED].

_____ also provides meals, transportation, and outpatients services. The latter is sometimes reimbursed by Medicare or Medicaid constituting 2% of _____ budget.

14. In accordance with our Catholic identity, [REDACTED] and its Affiliates provide a health plan for their respective full-time employees through a health plan sponsored by the Archdiocese of [REDACTED]. Catholic social teaching holds that access to health care, including health insurance, is a basic and universal human right and a demand of the common good. Catechism of the Catholic Church, para. 2288. This is due to the sanctity and dignity that every single human life possesses as made in the image and likeness of God, and as an object of God's particular love. Our health plan excludes abortion, puberty blockers, cross-sex hormones and surgeries intended to provide patients the appearance of the opposite sex, as well as other types of care inconsistent with Catholic values.

15. [REDACTED] and its Affiliates welcome persons of all faiths and do not discriminate on the grounds of sex, race, color, national origin or disability. *See* [REDACTED] Our nondiscrimination policy is grounded not only upon reason, but also upon the Catholic conviction that every single human being is made in the image and likeness of God and thereby possessed of intrinsic and inalienable dignity. It is further grounded in the Catholic belief that

human beings are to love one another in the manner of Jesus Christ, and according to the model of the Good Samaritan who cares for the person in need strewn upon his path (*Lk* 10:29-37).

16. The Catholic Church teaches that “Human life must be respected and protected absolutely from the moment of conception. From the first moment of his existence, a human being must be recognized as having the rights of a person—among which is the inviolable right of every innocent being to life.” Catechism of the Catholic Church, para. 2270. Therefore, the Church instructs that “Formal cooperation in an abortion constitutes a grave offense [and] a crime against human life.” *Id.*, para. 2272. Thus, paying for abortion in our health plan would violate our Catholic belief.

17. Catholic teaching opposes transgender medicine because it contradicts God’s creative sovereignty and confounds human beings’ understanding of their own dignity as well as their development as body-soul unities. Catholics believe that as sovereign Creator, God does not place any human being in the “wrong body.” Rather, the Book of Genesis states that after making humankind “male and female,” “in his image,” God “looked at everything he had made, and found it very good” (*Gen* 1: 27, 31). Thus, Catholics also believe that God makes every human being; we do not make ourselves. Catholicism further teaches that God creates every human being as an inseparable unity of body and soul. Consequently, a human being’s failure to accept his or her bodily sex would impede self-understanding and development at the biological, physiological, emotional, mental and spiritual levels, all of which are interrelated.

18. Any governmental regulation or policy requiring [REDACTED] or its Affiliates to cover abortion or gender transition services and cross-sex hormones in their employee health plan violates our deeply-held Catholic values and beliefs. Our ability to care for elderly clients and residents would be devastated if we no longer received Medicare and Medicaid funding because

we, in good conscience, chose not to comply with such a regulation or policy. Furthermore, were [REDACTED] or its Affiliates to pay for, cover, or facilitate access to abortion or transgender medicine, it would be powerfully communicating by word and deed to its employees, clients, and the public at large, that it no longer believed in God's creative sovereignty, a central tenet of its faith.

19. The [REDACTED] and its Affiliates have been members of the Catholic Benefits Association, without interruption, since December 23, 2016.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on May 25, 2023, at [REDACTED]